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## South Carolina Bar Association Annual Business Meeting

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**SOUTH CAROLINA BAR ASSOCIATION  
ANNUAL BUSINESS MEETING**

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**Held at Columbia, South Carolina**

**April 1 and 2, 1948**

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**GENERAL MINUTES**

**Thursday, April 1, 1948**

The fifty-fourth annual meeting of the South Carolina Bar Association convened in business session in the Circuit Court Room of the Richland County Court House, in the City of Columbia, South Carolina, at 2:30 o'clock, P.M., Thursday, April 1, 1948, the President, Hon. Edgar A. Brown, of Barnwell, presiding.

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The President called the Association to order and announced that the United States Circuit Court of Appeals for the Fourth Circuit was honoring the Association by holding a Special Session of the Court in Columbia during the time of the meeting of the Association. With appropriate remarks the President then presented to the Association Senior Circuit Judge John J. Parker, Judge Armistead M. Dobie (who was to be the guest speaker at the banquet Friday night), and Judge Morris A. Soper—all of the Circuit Court of Appeals. He then presented Judge George Bell Timmerman of the United States District Court in South Carolina and Judge Cecil C. Wyche also of said Court. Following this the President presented our own distinguished Circuit Judge of Marion, South Carolina, Judge L. D. Lide, and one of our younger Circuit Judges, Frank J. Eatmon. He followed this then by presenting Judge Legare Bates, Judge of the Richland County Court.

After telling an appropriate story anent the Annual Address of the President of the Bar Association, the President delivered his address as follows:

*Members of the South Carolina Bar Association:*

We come to the close of another year of our activities with pride in the wholesome growth of this organization but with anxious concern

over world affairs. I shall divide my remarks, briefly into a discussion of (a) local and internal matters; (b) the outlook in world affairs.

This has been a gratifying year in the life of the Association. The standards of the Bar have never been higher; its leadership more outstanding; its influence more impressive. Lawyers are leaders, professionally, politically and in civil life; usually the first to be consulted in his community or State for leadership, he preaches unselfish devotion to country and should practice it every hour of his life. He believes that right makes might and that no correct rule of human conduct ever had its origin in or owed its existence to selfish or sordid personal interest; he knows that he who lifts himself above the fog of personal interests and lives his life in the clear blue air of devotion to country and its Government is the real citizen upon whose shoulders must needs fall the burden of good Government and in whose mind must needs be solved the complex and sometimes confusing questions which will determine the good or evil influences which coming generations will enjoy or suffer.

In days of peace we can in a measure follow the even tenor of our way. The responsibilities of good citizenship, however, properly understood and effectively functioning must be assumed both in public and private life. It is sometimes difficult to recognize that it takes the same heroic courage for one to come out on the side of right in the upstanding civic controversies of the day, as is demanded of the same and others who bare their breasts to the storm of death which hovers above a battlefield.

The law and politics and good citizenship go hand in hand. Parenthetically, I might say that I am vain enough to believe that my selection as President of this Association came not so much because of long service within the ranks of the Association, though a member for more than thirty years, but in recognition of long public service in South Carolina. I have never been one of those who disliked being called a politician. I like it. The immortal Woodrow Wilson said that a politician was one "trained in the science of Government" and I can think of no higher tribute than to say of one that he is trained in the science of Government.

Here I might report that the law school at the University has kept keenly abreast of the times. Under the administration of Dean Sam L. Prince its enrollment is the largest in its history and the degree and quality of scholarship second to none in the country. I am happy to report that at long last we are within reach of our goal to obtain necessary funds for the erection of the so long needed new law building.

I want to make one or two recommendations for improvement in the operation of the Bar Association. I recommend that each year we elect a general over-all Vice-President who should be empowered in case of the death, resignation or removal from the State of the President, to assume the duties of the office so vacated; and normally who would be selected as President the following year. I also recommend that we change the set up of election and the tenure of office of our Executive Committee. I suggest that we presently elect an Executive Committee of three members, who shall not be eligible for re-election, for terms

of 1, 2 and 3 years and thereafter one member of the Executive Committee each year.

On affairs, not local, I hardly know what general remarks are appropriate. What I might write or say today, may be obsolete tomorrow. The world today is in a vicious cycle; in the center of this cycle stands this nation. A great French thinker, Anatole, once said that there are some things not given to man to know. When, how or where this cycle will break are some of the things about which he could have been speaking. All we know is that it must and will come. Such a state of world affairs cannot long exist. Nations, like individuals, can endure so much and no more; as a proud free people we will endure so much and no more. We have before been goaded into war; this may happen again. It becomes more apparent that a great destiny has been reserved for this nation.

We stand alone as a tree of oak in the world of free people, lashed by weird and wicked winds of a cruel and heartless campaign to convert the world into a communistic state. No people of their own volition ever imposed slavery upon themselves. Paraphrasing Lincoln, the world cannot live one part slave and one part free. Mistake it not—We stand at the cross roads, one leading to the pathetic fate which is engulfing many of the nations of the world, the other to the fulfillment of our destiny. If we fail, it may be recorded in history for a thousand years that our concept of a free people living in a democracy was but a dream of dreamers. For four hundred years Rome pursued the same tactics as are now being followed by Russia, and once held half of the world in subjection. Other nations have followed in her footsteps only to meet their Waterloo at the hands of people who would remain free.

We witness today a great and powerful nation, saved from Hitler's yoke only by our blood and wealth, seeking to impose upon the rest of the world a system of economic slavery and despotism far worse than the one from which she herself only recently escaped. Many weak and smaller nations have bowed to this yoke of oppression. Fortunately, the best of the world, though weak from the recent war, remains free; England, France, Belgium, Holland, The Netherlands, Greece, China, Italy and even defeated Germany and Japan look to us for help in the struggle against communism. To save these people is to save ourselves. Should they fail, how long will our kind of government continue to exist?

There can be no compromise between those concepts of human rights and human dignity upon which our Government was founded with the concepts of Government based upon the abolishment of human liberty and the banishment of a belief in God.

Edwin Markham, in his poem, "The Man With the Hoe," depicts clearly the fate of the common man in a communistic state. I quote a line or two:

"Bowed by the weight of centuries, he leans  
Upon his hoe and gazes on the ground,  
The emptiness of ages in his face  
And on his back the burden of the world."

I firmly believe that in God's great scheme of things we have been permitted, as a nation, to grow great and strong in order to insure man-

kind against slavery and oppression. If that be so the day for the fulfillment of this great destiny is fast approaching.

The irony of it all is that if war comes it will be against a people that we so recently saved at so great a sacrifice, from shackles and slavery. If we yield or refuse to fight if needs be to preserve our way of life, the sacrifices in life and wealth, made in the last war will have been in vain; our soldiers who lie buried on far-flung battlefields will have given their all for an empty purpose. As much as I hate war, if this nation must choose between war and communism, I prefer war. May God forbid the necessity for making such a choice.

Following the President's Address the Chair recognized Mr. Frank B. Gary of the Columbia Bar who proposed amendments to Article IV of the Constitution and By-Laws of the Association providing for the selection of a First Vice-President. Some discussion followed both pro and con, and on motion of Mr. Leppard the proposed amendments were referred by the Chair to a Committee consisting of Mr. Cosgrove of Charleston, Mr. Wise of Columbia, Mr. Tison of Bennettsville, Mr. Parler of Dorchester, and Mr. Burts of Spartanburg.

The Secretary-Treasurer read his report as follows:

Balance 1947 Report .....	\$ 1,928.31
Total dues collected through March 29, 1948.....	3,205.00
<b>Total .....</b>	<b>\$ 5,133.31</b>
<b>Expenditures:</b>	
Columbia Hotel, 1947 Meeting .....	\$ 1,060.94
Refreshments, 1947 Reception .....	386.65
Flowers, 1947 Meeting .....	35.75
Orchestra, 1947 Meeting .....	175.00
Ladies Luncheon, 1947 Meeting .....	112.40
Printing for Meeting .....	49.00
Stationery and supplies for one year .....	122.35
Stenographic Report, 1947 Meeting .....	61.70
Postage, Telephone and Telegraph .....	105.15
Bank Charges .....	.39
Delegate American Bar Association .....	28.50
Meeting of Federation of Law School Professors....	356.00
Luncheon Law School Committee .....	54.90
Salary of Secretary .....	600.00
Publication, 1947 Proceedings .....	531.56
<b>Total expenditures .....</b>	<b>\$ 3,680.29</b>
	<b>\$ 3,680.29</b>
<b>Balance on hand March 29, 1948 .....</b>	<b>\$ 1,453.02</b>

WALTER S. MONTEITH, TREASURER.

On motion the Treasurer's report was referred to an auditing committee appointed by the President as follows: S. S. Tison, Chairman, Pinckney L. Cain, and John Grimbail.

The President called upon F. William Cappelmann, Esq., to make the report of the Memorials Committee. Mr. Cappelmann thanked the members of the Committee—H. K. Osborne, A. F. Woods, M. G. McDonald, and George Warren—for their assistance in this work and read the list of the lawyers who had died in South Carolina during the preceding year.

*Deceased Lawyers*

*Memorial By*

Harold G. Dean, Anderson.....	John K. Hood, Jr.
Alva C. DePass, Columbia and Spartanburg.....	Charles B. Elliott
J. Team Gettys, Camden.....	C. J. Shannon, 4th
James W. Hanahan, Winnsboro.....	W. D. Douglas
Robert A. Hannon, Spartanburg.....	Arthur D. Rich
M. C. Harrelson, Mullins.....	W. B. Norton
John K. Hood, Sr., Anderson.....	T. Frank Watkins
M. J. Hough, Chesterfield.....	George K. Laney
Jack Horton, Chesterfield.....	J. E. Leppard
Samuel H. McGhee, Greenwood.....	W. H. Nicholson, Jr.
Jesse B. McLaughlin, Columbia.....	J. Archie Hutto
W. H. Muller, Dillon.....	S. S. Tison
L. O. Patterson, Greenville.....	B. A. Morgan
Claud N. Sapp, Columbia.....	Henry H. Edens
Marion W. Seabrook, Sumter.....	A. E. Merriman
Roach S. Stewart, Lancaster.....	D. Reece Williams
George L. Taylor, Georgetown.....	Herbert L. Smith
Judge H. H. Watkins, Anderson.....	Thomas Allen
Samuel M. Wolfe, Gaffney.....	R. A. Dobson
Arthur R. Young, Charleston.....	Harold A. Mouzon

*Also deceased in previous years:*

John Gary Evans, Spartanburg.....	J. G. Galbraith
J. B. Atkinson, Spartanburg.....	H. K. Osborne

The Association recessed for a few minutes to permit the members from the various Circuits to select the several members to the Nominating Committee. Upon the Association reconvening, the President asked the Nominating Committee to retire so as to formulate its report, and then he called upon Charles B. Elliott of the Richland County Bar to make his report from the Committee on Legal Education.

Mr. Elliott, before reading his report, called to the attention of the Association the fact that the American Bar Association had suggested that all applicants for admission to the Bar should have at least two years academic work com-

pleted and three years of study in the law school. He stated that we had never reached this standard as yet in South Carolina.

*To the South Carolina Bar Association:*

For many years this Association has gone on record as favoring a higher standard for admission to the Bar. In 1928 this Association went on record in favor of two years of college training and three years of law study, either in a law school or in a law office under the supervision of a member of the bar, as a condition precedent for taking the examination for admission to the Bar.

In 1930 the Committee on Legal Education and Admission to the Bar recommended that our State should not have any lower standard for admission to the bar than that recommended by the American Bar Association, that is, two years of college work and a three-year law course in a full time law school. It appears, however, that that recommendation was not adopted.

In 1937 this Association adopted the report of the Committee to the effect that "every candidate for admission to the bar should have a two-year academic course in college." The Committee that year did not follow the recommendation of the American Bar Association that a three-year law course at college should also be a prerequisite for admission to practice.

In 1938 the Committee on Legal Education and Admission to the Bar reported that thirty-three States required the equivalent of two years of general college education as a preliminary to the study of law, that these thirty-three states represented approximately seventy-five per cent. of the population of the United States and approximately seventy-four per cent. of the lawyers. That report submitted a proposed amendment to Section 316 of the Code of Laws of South Carolina so as to require a preliminary education equivalent to two years of college work, in lieu of the present requirement of the Code of the equivalent of a high school education. This Association adopted that report.

At the present session of the General Assembly a Bill was introduced to repeal Section 320 of the 1942 Code and to amend Section 316 of the Code, both Sections pertaining to admission to the practice of law in South Carolina. This Bill has passed the House and is on third reading in the Senate.

Only two substantial changes would be achieved by the enactment of this Bill: first, all applicants for admission to the Bar of South Carolina would be required to take the examination; second, the period of time fixed for the study of law either in a law school or in a law office would be changed from two to three years. The minimum requirement for a preliminary general education equivalent to that of a graduate of a high school of this State would not be affected by the enactment of the Bill.

In the opinion of this Committee a preliminary education equivalent to two years of college work, in lieu of the present requirement of the equivalent of a high school education, should be the minimum re-

quirement. We recommend that a steering committee be appointed for the purpose of procuring the adoption of appropriate legislation.

Respectfully submitted,

CHARLES B. ELLIOTT, Chairman  
RAY R. WILLIAMS  
W. G. FINLEY  
L. W. PERRIN, JR.  
JULIAN MITCHELL, JR.

April 1, 1948

On motion of Mr. Elliott the report was adopted.

Upon the call of the Chair, Mr. J. Carl Kearse, Chairman of the Grievance Committee, made the following report:

We are happy to report that there were no formal charges filed with the Committee on Grievances during the past year. We did receive a few complaints but, after some correspondence, the parties decided not to file formal charges. It is evident that Members of the Bar Association have been properly conducting themselves.

In the absence of Judge E. H. Henderson, Chairman of the Committee on Administrative Law, the report of the Committee was read by the Secretary of the Association:

The subject of administrative law has in recent years become of increasingly great importance, in view of the many commissions and boards which have been established by both the State and Federal governments. This is especially true with reference to the government of the United States, since a vast number of commissions, boards and agencies have been set up.

In the field of Federal administrative law, the Congress very recently has adopted the Administrative Procedure Act of June 11, 1946. Such a law had been advocated for many years by the American Bar Association, and the subject had been studied by various presidential and congressional committees for ten years or more.

This statute goes into great detail as to rule making, adjudications by the commission, the conduct of hearings, the powers of the commissions, and judicial review of decisions made. It was felt that there was a widespread demand for legislation to settle and regulate the field of Federal administrative law and procedure. Since there were no well recognized legal guides for either the public or the administrators, the law attempted to state a simple and standard plan of administrative procedure. The statute provides that the agencies shall issue certain rules as to their procedure. It sets for the essentials of the several forms of administrative procedures, and the limitation on administrative powers. It provides in detail the requirements for hearings and decisions, and gives a simplified method of judicial review.

In the State field the National Conference of Commissioners on Uniform State Laws has adopted a proposed administrative procedure law for the states. This proposed statute deals primarily with major principles, not with minor matters of detail, leaving such procedural details



to the individual state to be worked out for itself according to the necessity of the situation. The statute does, however, include certain basic principles, among others the requirement that each agency shall adopt essential rules, and that proper publicity be given to administrative rules which affect the public; the assurance of fundamental fairness in administrative hearings, particularly in regard to rules of evidence, the taking of official notice, and the exclusion of factual material not properly presented and made a part of the record; and the assurance of proper scope of judicial review of administrative orders.

This statute has been adopted by the State of Wisconsin. North Dakota has an act along somewhat similar lines. Ohio, California, Pennsylvania, Illinois, and Virginia have adopted statutes embracing in some measure the subject of administrative procedure.

In South Carolina there are a great many commissions and agencies handling various phases of administrative law. In earlier days the practice of lawyers was confined to the various courts of law and equity, but now it is necessary that the members of the bar constantly handle for their clients matters which arise before the administrative boards and agencies. While these agencies and commissions are no doubt essential and accepted features of our government, based upon a complex economic society, it is necessary, under our constitutional form of government, that their powers and duties be so regulated that they will not be called upon to exercise essential law-making functions.

A comparison of the Federal law and the proposed uniform statute for the States will show that both emphasize the importance of definite rules, which are duly made public, the conduct of the hearings, and judicial review of decisions made.

Just as in the common law courts it is essential that the procedural law be well defined, it is equally important that administrative bodies have rules which are definite, and which are available to the public, and to members of the bar who practice before these commissions. In our State the rules of the various agencies are published in the code or in the annual statutes, and so no additional legislation in this respect is needed.

A wide latitude has been allowed the various commissions and boards for the making of administrative rules and regulations.

In the case of *Davis v. Querry*, 209 S. C. 41, 39 S. E. (2d) 117, the Supreme Court declared that commissions may be given a broad scope in their functions where situations require a flexibility of control, which are not possible under the rigidity of legislative acts, without amounting to an unconstitutional delegation of legislative authority, and, after declaring a policy and fixing a primary standard, may confer upon administrative bodies the power to fill up the details and may invest in administrative bodies a large measure of discretionary authority.

A limitation, however, to this power of the governmental agencies was pointed out in the case of *Piedmont & Northern Railway Co. v. Scott*, 202 S. C. 207, 24 S. E. (2d) 353. In this case it was declared by the Supreme Court that the Public Service Commission is a governmental body of limited power; that when the commission undertakes to exercise any fundamental regulatory power, this power must be found in specific legislative provisions. Powers of the commissions are not to be

derived from mere inference, they must be founded upon language in the enabling acts which admits of no other reasonable construction; and that such bodies being unknown to the common law, and deriving their authority wholly from constitutional and statutory provisions, will be held to possess only such powers as are conferred, expressly or by reasonably necessary implication, or such as are merely incidental to the powers expressly granted, and that any reasonable doubt of the existence of any particular power should ordinarily be resolved against its exercise of the power. The Court also pointed out the distinction between the making of regulations affecting substantial rights and regulations relating to purely administrative matters.

It is very important that all of our administrative bodies should include in the record of a contested case all of the evidence which it considers and relies upon, so that this record may be available for any party who wishes to take an appeal, and so that no material, unless properly presented and made a part of the record, should be considered by the Commission in arriving at its decision. No finding or conclusion of any administrative agency should be based in any manner upon records or other material not made a part of the record.

It is very likely that at the present time all decisions of our agencies are subject to review by the courts, as to error of law, although it might be advisable to follow somewhat the procedure laid down in the uniform act of an easy and well-marked path for appeals from the decisions of all of the various commissions.

It may well be that in the near future, it would be a forward step for the Bar Association to bring to the attention of the General Assembly the question of the wisdom of adopting a statute as to administrative procedure in this State. This need not be anything like as comprehensive as the uniform act on the subject, but could well be in a very simple form, suitable to our conditions, and in harmony with our present laws on this subject. This would bring about uniformity among the various boards, and would furnish a standard for the counsel, the public, and the agencies themselves.

We, therefore, recommend that the Bar Association authorize its proper committee to confer with the Committees on the Judiciary of the two Houses of the General Assembly, with a view to exploring this field, and determining whether or not any additional legislation on this subject is desirable, especially with reference to the conduct of hearings and the taking of evidence, and as to a uniform and simple method of appeal to the courts, so that it may be determined whether the decision of the board is affected by error of law; and whether it is supported by competent, material, and substantial evidence.

E. H. HENDERSON, Chairman  
WM. H. GRIMBALL  
J. ROBT. MARTIN, JR.  
T. B. SIMONDS  
C. C. TAYLOR

The Secretary then announced the program of the Association meeting as follows: Cocktail party at Hon. Clint T.

Graydon's at six o'clock; reception and dance at the Columbia Hotel nine o'clock.

The Meeting adjourned until eleven o'clock A.M., April 2, 1948.

## SECOND BUSINESS MEETING

Friday, April 2, 1948, at 11:00 O'clock A.M., Columbia, S. C.

The South Carolina Bar Association reconvened in business session in the Circuit Court room of the Richland County Court House, at 11:00 o'clock, A.M., April 2, 1948, at Columbia, S. C., Hon. Edgar A. Brown, President, presiding.

The Secretary read the list of applications for new members as follows:

Preston H. Callison.....	Columbia
Robert L. Chipley.....	Greenwood
Proctor A. Bonham.....	Greenville
J. William Bradford.....	Greenwood
Howard L. Burns.....	Greenwood
J. Heyward Furman, Jr.....	Charleston
Charles H. Gibbs.....	Charleston
Augustus Tompkins Graydon.....	Columbia
William P. Gullledge.....	Chesterfield
Robert G. Horine.....	Columbia
Ray W. Humphries.....	Florence
Thomas K. Johnstone, Jr.....	Columbia
Harry Lofton.....	McClellanville
Alva M. Lumpkin, Jr.....	Columbia
John Gaillard Martin.....	Columbia
Lewie Griffith Merritt.....	West Columbia
Philip R. McCown.....	Florence
Austin R. McElhaney.....	Greenwood
R. Kirk McLeod.....	Sumter
Taylor B. Rion.....	Columbia
Claud N. Sapp, Jr.....	Columbia
Albert Simons, Jr.....	Charleston
Jerold B. Sindler.....	Bishopville
Augustine Thomas Smythe, Jr.....	Charleston
Thomas McK. Stubbs.....	Columbia
Vernon E. Sumwalt.....	Hampton
Henry C. Walker.....	Ridgeland
John G. Willis.....	Columbia
John S. Wilson.....	Sumter

On motion of Mr. Osborne those lawyers whose names were so read were accepted as members of the Association.

The Chair then called upon Mr. Cosgrove to make the report of the Committee appointed the previous day on the question of Mr. Gary's proposed amendment to the Constitution and By-Laws and moved the adoption of the following amendment to the Constitution and By-Laws:

**PROPOSED AMENDMENT TO CONSTITUTION OF SOUTH  
CAROLINA BAR ASSOCIATION**

Amend Article IV, by striking out all of paragraphs one and two and inserting in lieu thereof the following:

"Article IV. The Officers of the Association shall be a President, who shall not be eligible for re-election; a First Vice-President, who shall be Ex-Officio Chairman of the Executive Committee; one Vice-President from each Judicial Circuit in this State represented in the Association; an Executive Secretary; an Executive Committee, to be composed of the First Vice-President, the Executive Secretary, and three other members of the Association; and a General Council, consisting of one member from each Judicial Circuit represented in the Association, of which the President shall be Chairman ex-officio, and of which the Secretary shall be Secretary ex-officio.

The President, First Vice-President, Vice-Presidents from each Judicial Circuit, Executive Secretary and members of the General Council shall be elected at each annual meeting for terms of one year each; *Provided*, that the members of the General Council from each Judicial Circuit, respectively, shall before their election be nominated by the members of the Association present from said Judicial Circuit at the convention. The powers and duties of the members of the General Council may not be delegated but only members present in person may vote or act at meetings thereof.

There shall be a Committee on Nominations for all officers of the Association to be selected at each annual meeting from the members present from each Judicial Circuit, there being one member of the Nominating Committee from each Circuit represented at the meeting.

The members of the Executive Committee shall be elected for terms of three years each; *Provided, However*, in the election of the Executive Committeemen at the 1948 Annual Meeting one Executive Committeeman shall be elected for a term of one year, and one Executive Committeeman shall be elected for a term of two years, and one Executive Committeeman shall be elected for the full term of three years. Thereafter at each annual meeting one executive committeeman shall be elected to succeed the committeeman whose term then expires."

**PROPOSED AMENDMENT TO BY-LAWS OF THE  
SOUTH CAROLINA BAR ASSOCIATION**

Amend By-Law I, by striking out all of said by-law and inserting in lieu thereof the following:

"By-Law I. At all meetings of the Association the President shall preside. In his absence the First Vice-President shall preside. In the absence of both the President and First Vice-President, one of the other Vice-Presidents, chosen by themselves, shall preside. In the absence of the President, First Vice-President and Vice-Presidents, any member of the Association, selected without ballot, shall preside.

In case of the death, resignation or removal from the State of the President, the First Vice-President shall succeed to the office of the President."

In the consideration of the amendments so proposed, Mr. R. Beverley Herbert, Sr., suggested that a committee of five be appointed to consider broadening the scope of the activities of the Association, and he thought that this should be gone into before considering the amendments. The Chair was of the opinion that such a committee could be appointed later, but that these amendments were a step forward.

Mr. Hugh Hanna discussed the methods of obtaining additional members of the Association. The Chair had definitely in mind that this could be one of the functions of the First Vice-President—that is, obtaining new members. Mr. Lepard expressed the idea that he thought that one of the purposes of creating the office of First Vice-President was to permit him to discharge some of the duties of the President, and the Chair was of the opinion that the President could delegate certain duties to the First Vice-President anyway. Mr. Cosgrove was of like mind. The amendments then were unanimously adopted.

The amendments having been adopted, the Chair asked the Nominating Committee to retire so as to be able to complete its report in accordance with the Constitution and By-Laws as now amended.

The President announced that United States Attorney General Clark would not be able to attend to make the principal address of the Association but that he was sending in his stead his First Assistant, Theron L. Caudle, of North Carolina.

The Nominating Committee through Mr. Cosgrove made the following nominations for the ensuing year:

*President:* George Warren, Hampton

*First Vice-President:* Clinton T. Graydon, Columbia

*Executive Committee:* Frank H. Bailey, Charleston; J. Means McFadden, Chester; E. W. Mullins, Columbia

*Secretary-Treasurer:* Walter S. Monteith, Columbia

Mr. Cosgrove recommended that the Executive Committee, when elected, retire and select the staggered terms of each member by lot. There being no further nominations, the report of the Committee was unanimously adopted.

Mr. Irvine Belser made the report of the Committee on the Unauthorized Practice of Law.

Your Committee on the Unauthorized Practice of Law begs to report:

That during the year one complaint has been made to your Committee relative to the possible unauthorized practice of law.

This matter has been investigated, both by the Richland County Committee on this subject and by your own Committee, and your Committee desires to express and record its appreciation of the work of the Richland County Committee, and particularly of Mr. James F. Dreher, its Chairman.

From these investigations it appears, particularly from the statement made by the subject under consideration, that he advertises himself as an adviser and consultant on personnel-labor-management problems; that he prepares application for employment forms and termination of employment forms; that he handles personnel and payroll problems and advises on labor management; that he supplies information to the commission or referee for the South Carolina Employment Commission Security in resisting claims of employees for unemployment compensation; but that he prepares no pleadings, presents no arguments and cross-examines no witnesses; that he supplies to his clients copy of the Belo contract but does not undertake to draw any contracts for his clients; that he is usually employed by the month; that he refuses to check to see if his employers comply with the Wage and Hour Laws and in all respects works under and with and as assistant to lawyers.

We have found no cases directly covering his operations but one New Jersey case holds that under much similar circumstances the activities do not constitute the practice of law (see *Aeurbacher v. Wood*, decided April 30, 1947).

The Chairman of the corresponding committee for the American Bar Association seems to be under the impression that the activities of the individual in question do constitute the unauthorized practice of law.

The matter does not seem to us entirely free from doubt.

Your Committee is in the utmost sympathy with the decision of the Court in the case of *Attorney General v. Wells*, 191 S. C. 468, to the effect that "the policy of prohibiting laymen from practicing law is not for the purpose of creating a monopoly in the legal profession, nor for its protection, but to assure the public adequate protection in the pursuit of justice, by preventing the intrusion of incompetent and unlearned persons in the practice of law. \* \* \*". On the other hand, your Committee is not unmindful of the analogous maxim that the proper limits of jurisdiction are best observed not only by assuming jurisdiction where jurisdiction actually lies, but by declining jurisdiction where it does not exist.

On the whole, however, your Committee has felt it to be its duty to caution the individual in question to refrain from undertaking to draw

contracts or to advise on legal problems, or to represent any of his employers before any commissions or courts, or to prepare pleadings or examine witnesses, all of which injunctions and advices the person in question has agreed to follow and abide by. Your committee therefore recommends that no action be taken at this time with the view of instituting any action against the person in question but that the file be turned over to the succeeding committee on this subject, with authority and instructions to take any appropriate action which may be necessary, depending upon whether the individual complies with the advice given to him by your committee.

Respectfully submitted,

IRVIN F. BELSER, Chairman  
ED. PARLER  
SIDNEY W. DUNCAN  
O. FRANK THORNTON  
MARION F. WINTER

The President asked Mr. Benet to take the Chair so that he, the President, could go to meet Mr. Caudle.

The Chair then called for the report from the Committee on the Law School. This was made by Mr. Frank B. Gary, Jr.

1. During the past eighteen months your Committee has been most active. This activity was stimulated by the needs of the Law School and particularly the necessity for adjusting its operations and facilities to the present new demand for legal training, and the probable demand in the future. We feel that the proper development of our Law School in itself will add much to the proper development of the University.

2. We have had many meetings and the members of our Committee have worked, we believe, effectively and we know unselfishly. These meetings have at times been with representatives of the Law School, the President of the University, the President of the South Carolina Bar Association, trustees of the University, the Executive Committee of the South Carolina Bar Association, Legislators and others.

3. We have assisted in public functions of the Law School, such as the opening of the School in September, 1947, receptions given at the School, and the exercises in the presentation of the Crowson portrait of Dean Emeritus J. Nelson Frierson.

4. One of our sub-committees, headed by M. G. McDonald, Esq., of Greenwood, raised the money necessary to have the portrait of Dean Frierson painted. Another sub-committee attended to the carrying out of the details of this commission at appropriate exercises held this past January when this portrait was presented to the Law School.

5. Your Law School Committee has cooperated with the Committee on Uniform State Laws and also cooperated with the Dean and Faculty of the Law School in their effort to raise the standard for admission to the Bar and the elimination of the diploma privilege that the Code provided for the Law School.

6. Your Committee arranged for members of the law faculty to appear before the Judiciary Committee of the Senate and to give expert opinions on the Uniform Laws being considered by the Judiciary Committee. We think that members of the Senate and House have discovered that our Legislature has probably been "missing a bet" in not heretofore availing itself of the advice and counsel of these teachers who are specialists in certain definite fields. It is our opinion that in the future members of the Legislature will call upon the faculty of the Law School more and more for assistance along this line.

7. In August, 1947, your Committee, functioning with the Executive Committee of the South Carolina Bar Association, was able to aid substantially the Law School in organizing and conducting the first Regional Conference of Law Teachers ever held in America. This Conference was of marked substance, in addition to being a most enjoyable occasion, and was attended by law teachers and deans of national reputation and was of such success that it had special notice by the Association of American Law Schools and its Executive Committee. This Conference was pointed to by the President of the Association of American Law Schools at their meeting this past Christmas as being one of the two notable events in Law Schools in America during the then past year. This past month a letter has gone out from the Executive Committee of the Association of American Law Schools to all the law teachers in America—something over 2,000—members of the Association, calling their particular attention to the desirability of similar conferences.

Following in the wake of this Conference, the Association of American Law Schools has appointed Dean Prince chairman of a committee to study the problems of the smaller law schools of the Association, these being about seventy-five per cent of all member schools.

This region in which our Law School is located includes the states in the Southeast with Louisiana, Tennessee, and Kentucky on the west and the Virginias on the north. Another such conference is being held this coming September in Miami, Florida.

8. Your Committee has also, through its sub-committee headed by L. W. Perrin, of Spartanburg, investigated and considered the matter of some cooperative effort between the members of the Bar as represented by our Association and the Law School in the matter of extending the publications of the Association and the Law School. This sub-committee will make a special report on this matter.

9. Our main effort during the past eighteen months has been directed towards relieving the inadequacy of our law building facilities. The solution of nearly every problem which the Law School has is dependent upon proper building facilities being afforded. Numerous conferences have been held with members of the State Legislature and representatives of the University and the Law School. Our Law School cannot remain in the Association of American Law Schools unless adequate building facilities are made available and unless the proportion of full-time teachers to part-time teachers is increased. This latter problem cannot be solved unless and until the building problem is solved.

The solution of the problem of the building facilities is made more difficult by the many other needs of the University. However, an ade-



quate Law School with adequate facilities is one of the factors that contributes to make the University an institution on a university level. A satisfactory solution to this problem of building facilities is going to depend to a large extent upon the real enthusiasm of the members of our profession for a well-balanced Law School. In the opinion of your Committee, no greater contribution can be made at this time by the individual lawyer of our State towards the advancement of the standing of our profession than that of enthusiastically supporting the efforts of our Association in helping to solve this building problem.

It is our understanding that before appropriating surplus funds last year to the University, the Legislature was assured that approximately \$350,000.00 would be used for a new law building. None of these surplus funds, however, under the wording of the Act can be used to purchase land, and it seems highly desirable for any new law building to be erected off the present campus proper, but nearby. Moreover, it appears doubtful whether the authorities in charge of building are going to allocate enough money for the erection of a new building but that instead they will try to add to the existing building. It is your Committee's understanding, however, that the Deficiency bill probably will contain an appropriation to supplement funds which the building authorities are willing to allocate.

Your Committee recommends that this Association go on record as favoring the erection of an adequate new building, and not adding an annex to the present building.

Respectfully submitted,

CHRISTIE BENET  
JOHN I. COSGROVE  
W. MARSHALL BRIDGES  
THOMAS H. POPE  
CALHOUN THOMAS  
L. W. PERRIN  
FRANK B. GARY, JR.

The Chair asked that this report be discussed. He stated that there were a "grand lot of young men in the Law School. Most of them are mature men. They served with the United States Army and served all over the world." And he stated that the conditions at the Law School from the standpoint of the lack of physical facilities were almost beyond belief. Mr. Irvine Belser in rather extended remarks spoke in the highest terms of the work that the Law School is doing and of its splendid faculty and asked the Association to give its fullest support.

Mr. Warren stated he was Chairman of the Committee appointed by the Legislature the previous year—five members of the Senate and five members of the House—for the distribution of Surplus Funds, and that the Legislature was fully

in accord with adequate facilities being furnished to the Law School of the University.

The report of the Committee was unanimously adopted.

The Chair presented Miss Alice Robinson.

Mr. L. W. Perrin of the Law School stated that at the request of Mr. Gary, as Chairman, he was making a special report on the Law School publication. He stated that he was not a graduate of the South Carolina Law School but that from his observation in the past twelve months it deserved the support of the Association. He also told of the study that his sub-committee had made of the question of the publication.

The sub-committee on the law publication of our Law School reports: We have given much study in this field. There is much need in our State for just such a publication—with leading articles written mainly by members of the Bar and members of the law teaching profession within and without our State and the case notes written mainly by the students of the Law School.

We most heartily approve the policy of the Law School in planning its issues of the present publication so as to be timely in content and of special worth and value to members of the profession in our State. Every such issue needs to be tailored with these two aims in view. The February issue of the "Year Book" of the Law School admirably illustrates the idea. This issue should be carefully preserved by every member of our Bar. It contains valuable expert information that may be needed any day by a practicing attorney in our State.

Our profession has neglected legal writing—a most important method of adding to our much needed store of legal lore. Some joint effort in this field between the Law School and the Bar Association is indicated. Members of the Association peculiarly able to assist, such as Judge L. D. Lide and others, approve the idea of developing our legal writing and express a willingness to assist.

The idea of a joint effort between the Association and the Law School is not new and is satisfactorily in operation in a number of states—such as Georgia, Tennessee, Texas, Mississippi, Arkansas and others. The methods of operation in these states vary from control by the Law School with the Association making a substantial contribution in money each year and members of the Bar doing research and writing articles on particular subjects as called upon, to control by the Association through a committee of its members or through a corporation chartered by the Association with the members of the law faculty joining in with members of the Bar in doing research and writing articles on particular subjects as called upon. In all these operations law students are used to write the case notes and sometimes they furnish an acceptable leading article.

It is the opinion of your sub-committee that the Association take the following action: First, that the Association approve the idea of a joint effort with the Law School of the University of South Carolina in this particular field. Second, that the Executive Committee of the Associ-

ation be given full authority to determine upon the details and plan of such joint effort and to put the same into effect under an appropriate name with full authority to use such funds of the Association as in its operation may be necessary and appropriate therefor.

L. W. PERRIN

The Chair called upon Professor Elliott to give his opinion. Mr. Elliott was impressed with the opportunities presented by this effort not only in developing scholarship and original thinking among students, but of the vast benefit to the lawyer and law teacher.

Judge Lide stated he would be glad to do what he could to foster the theory and idea—the establishment of the *Law Quarterly*—and that it would require the assistance of the Bar and Bench of South Carolina. He thought the report was splendid and hoped that the Bar would act favorably upon it. Dean Prince was called upon and stated something of the cost and of somewhat similar efforts that had been made with other law schools and with other bar associations.

The report was unanimously adopted.

The Chair recognized Dean Frierson and he in most appropriate words expressed his delight in being at the Association meeting.

Mr. R. Beverley Herbert rose to renew his motion that a committee of five be appointed to study how the Association may be more useful to the profession and asked to know if this would be in accord with the views of the incoming President, Mr. Warren.

Mr. Warren stated that he felt that the Association was not thoroughly filling the needs of the profession in South Carolina and, though the Annual Meetings had been delightful, the Association hadn't gotten down to enough actual work, and he stated that he was thoroughly in accord with Mr. Herbert's motion.

Mr. Herbert's motion was then unanimously carried.

The Chair reminded the Association of the meeting at the State House at 3:30 P.M. to hear Mr. Caudle and that the Annual Banquet would be served at the Columbia Hotel at 7:00 P.M.

Mr. Cosgrove voiced the appreciation of the Association of the entertainment furnished from year to year by Mr. and Mrs. Clinton T. Graydon. This appreciation was put in the form of a motion and was unanimously carried.

Mr. Cosgrove called attention to the fact that the attorneys of Charleston were again inviting the Association to meet at Charleston next year and that they recognize that this is a matter that would be handled by the Executive Committee.

The meeting was adjourned until the 3:30 P.M. meeting at the State House at which time the Association heard the address of Mr. Caudle and later in the evening enjoyed the Annual Banquet which concluded the meeting of the Association.